

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 23, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:11KD-082

KAUAI

Set Aside to Department of Land and Natural Resources, Division of Forestry and
Wildlife for Addition to the Wailua Game Management Area, Kawaihau, Kauai,
Tax Map Key: (4) 4-6-3:1.

APPLICANT:

Department of Land and Natural Resources, Division of Forestry and Wildlife

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-3:1, as shown on the attached map labeled Exhibit A.

AREA:

15.56 acres, more or less.

ZONING:

State Land Use District: Conservation
County of Kauai CZO:

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-5318, Jeannette Virginia Martins, Lessee, for pasture purposes. Lease to expire on June 29, 2028.

PURPOSE:

Addition to Wailua Game Management Area purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, the provisions of Chapter 343, HRS, relating to environmental impact statements do not apply. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

Furthermore, even if Chapter 343 were applicable, the action would be exempt from the preparation of an environmental assessment pursuant to Hawaii Administrative Rules, Section 11-200-8(a), Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

APPLICANT REQUIREMENTS:

None

BACKGROUND:

General Lease No. 1272 issued to K. Iida for Lot 13 (1 acre) and Lot 14 (1-2/10 acre) from July 3, 1921 to July 2, 1931. Annual rent \$74.00 Later assigned to Hisakichi Ebesu.

General Lease No. 2141 issued to Hisakichi Ebesu for Lot 13 (1 acre) and Lot 14 (1-2/10 acre) from July 3, 1931 to January 24, 1939. Annual rent \$52.00 Lease cancelled.

General Lease No. 2748 issued to Mrs. Daisy Long Aguiar for Lot 13 (1 acre) and Lot 14 (1-2/10 acre) from June 15, 1939 to June 14, 1952. Annual rent \$35.00 Later assigned to Alfred F. Veveiros.

Revocable Permit No. 1388 issued to Alfred F. Veveiros for Lots 13 to 16 covering approximately 7.3 acres from September 1, 1954 to March 31, 1961. Monthly rent \$3.00

The Land Board at its meeting of February 12, 1965, under agenda Item F-13, preparation of documents for a public auction of a 20-year lease for pasture purposes. A public auction was held on July 14, 1966 on the island of Kauai. General Lease No. S-3991 issued to Frank S. Morris and Dorothy T. Morris from July 14, 1966 to July 13, 1986. Annual rent was \$120.

The Land Board at its meeting of August 11, 1967 consented to the assignment of General Lease No. S-3991 from Frank and Dorothy Morris to Frank Morris.

The Land Board at its meeting of February 14, 1969 consented to the assignment of General Lease No. S-3991 from Frank Morris to Edwin Martin.

The Land Board at its meeting of December 12, 1969 consented to the assignment of General Lease No. S-3991 from Edwin Martin to Ernest Palmeira.

The Land Board at its meeting of August 23, 1985, under agenda Item F-10, authorized the issuance of an interim revocable permit for pasture purposes to Ernest Palmeira and approved the public auction sale of a 15 year lease. Revocable Permit No. S-6453 issued to Ernest Palmeira covering 15.560 acres from July 14, 1986 to June 29, 1993. Monthly rent \$20.00

The Land Board at its meeting of June 28, 1991, under agenda Item F-8, authorized the direct awarding of 35 year leases to various month-to-month revocable permit tenants. Discuss the history of the parcel. Act 237, Session Laws of Hawaii 1988, authorized the Board of Land and natural Resources to negotiate and execute lease(s) to those tenants that hold a revocable permit for agricultural or residential and home gardening purposes; has formerly held a state agricultural lease which expired within the last 5 years; and does not own agriculturally zoned land of 25 acres or more in the State. Revocable Permit No. S-6453 was one of the 11 revocable permits identified for the island of Kauai.

General Lease No. S-5318 was issued to Ernest Palmeira. The lease commenced from June 30, 1993 to June 29, 2028. Annual rent \$358.00 Character of use was for pasture purposes.

The Land Board at its meeting of May 26, 1995, under agenda Item F-1-a, consented to the assignment of General Lease No. S-5318 from Ernest Palmeira to Edwin Martins as Trustee of the Edwin Martins Revocable Living Trust dated September 23, 1994. Reason given – estate planning.

The Land Board at its meeting of January 12, 2001, under agenda Item D-5, consented to the assignment of General Lease No. S-5318 from Edwin Martins (deceased) Revocable Living Trust to Jason Edwin Martins. Mr. Edwin martins passed away on October 2, 2000. His daughter Jeannett Martins, as executor of Mr. Martins' estate, requested the assignment to Mr. Martins son, Jason.

The Land Board at its meeting of March 28, 2003, under agenda Item D-15, staff requested

the Board amend its prior approval of January 12, 2001 by deleting its recommendation to consent to the assignment of General Lease No. S-5318 to Mr. Jason Martins. The assignment would be to Jeannett Martins, as Successor Trustee of the Edwin Martins Revocable Living Trust Agreement dated September 23, 1994. Mr. Jason Martins was no longer interested in being responsible for the lease.

The Land Board at its meeting of January 23, 2004, under agenda Item D-13, staff requested the Board amend its prior approval of January 12, 2001 and March 28, 2003. More housekeeping. The assignment would be to Jeannette Martins.

By memorandum received on May 18, 2011, Mr. Paul Conry, Administrator for the Division of Forestry and Wildlife is requesting the State property be set aside to the Division. The subject property is adjacent to the Wailua Game Management Area (GMA) on the island of Kauai. The addition of this property would support game resources, public hunting opportunities and access to the existing GMA.

REMARKS:

Currently, the property is encumbered by General Lease No. S-5318 which will expire on June 29, 2028. The last reopening was on June 30, 2003. The annual rent is \$500. Approximately a quarter of the property is steep hillside, the remainder being mostly level.

Staff is recommending the transfer of this tenant to the Division of Forestry and Wildlife.

Comments were solicited from:

DHHL	No response
OCCL	Pasture use appears to be a nonconforming use. No objections to land being set aside to DOFAW. Should facilities or land uses be proposed, even uses to further the encumbering agencies policies and programs, OCCL maintains it's authority to review proposed land uses and implement Chapter 183C, HRS and regulate the use under Chapter 13-5, HAR.
Division of Forestry & Wildlife	No objections
County of Kauai, Department of Planning	No response
OHA	No response

There are no pertinent issues or concerns.

RECOMMENDATION: That the Board:


1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



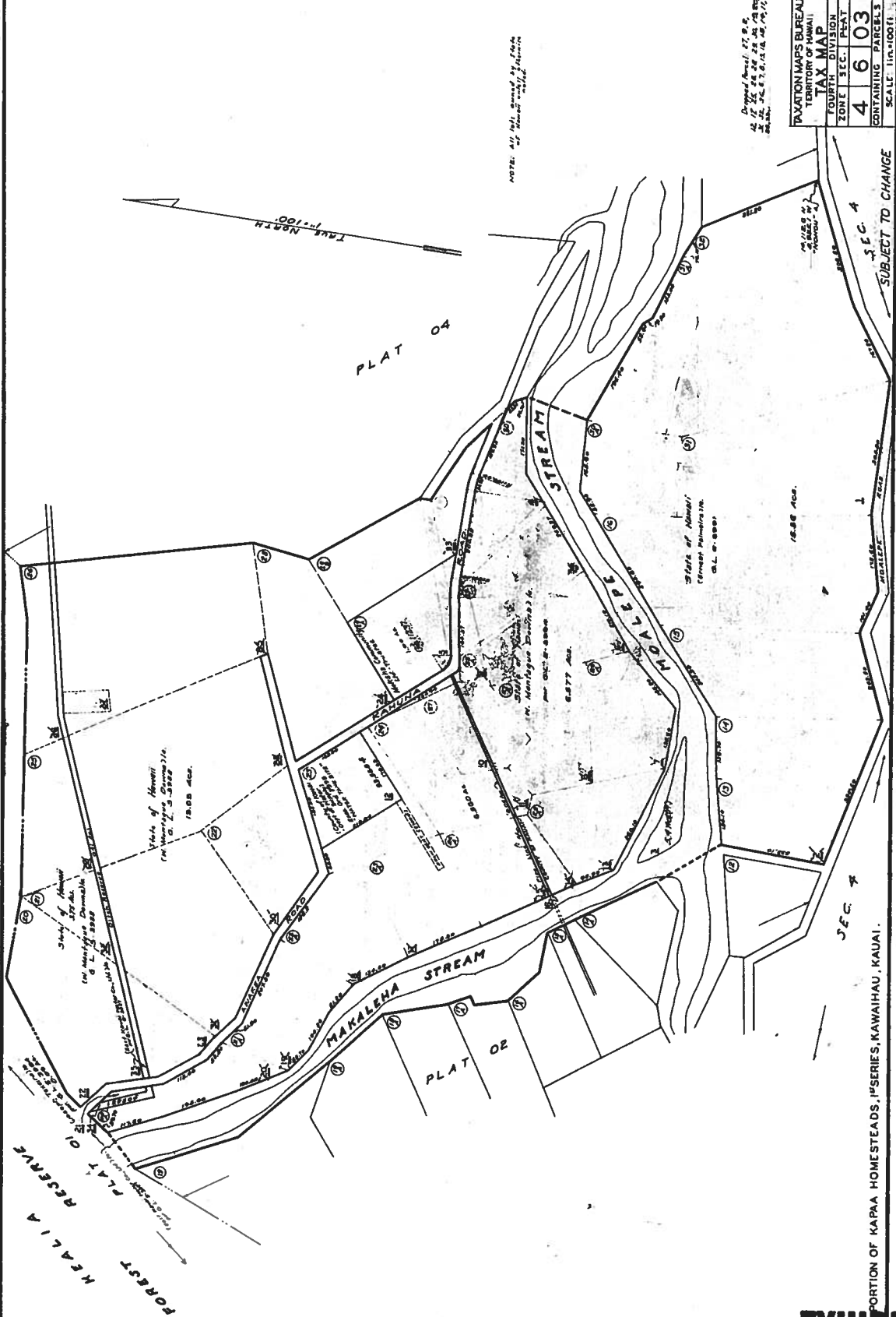
Charlene Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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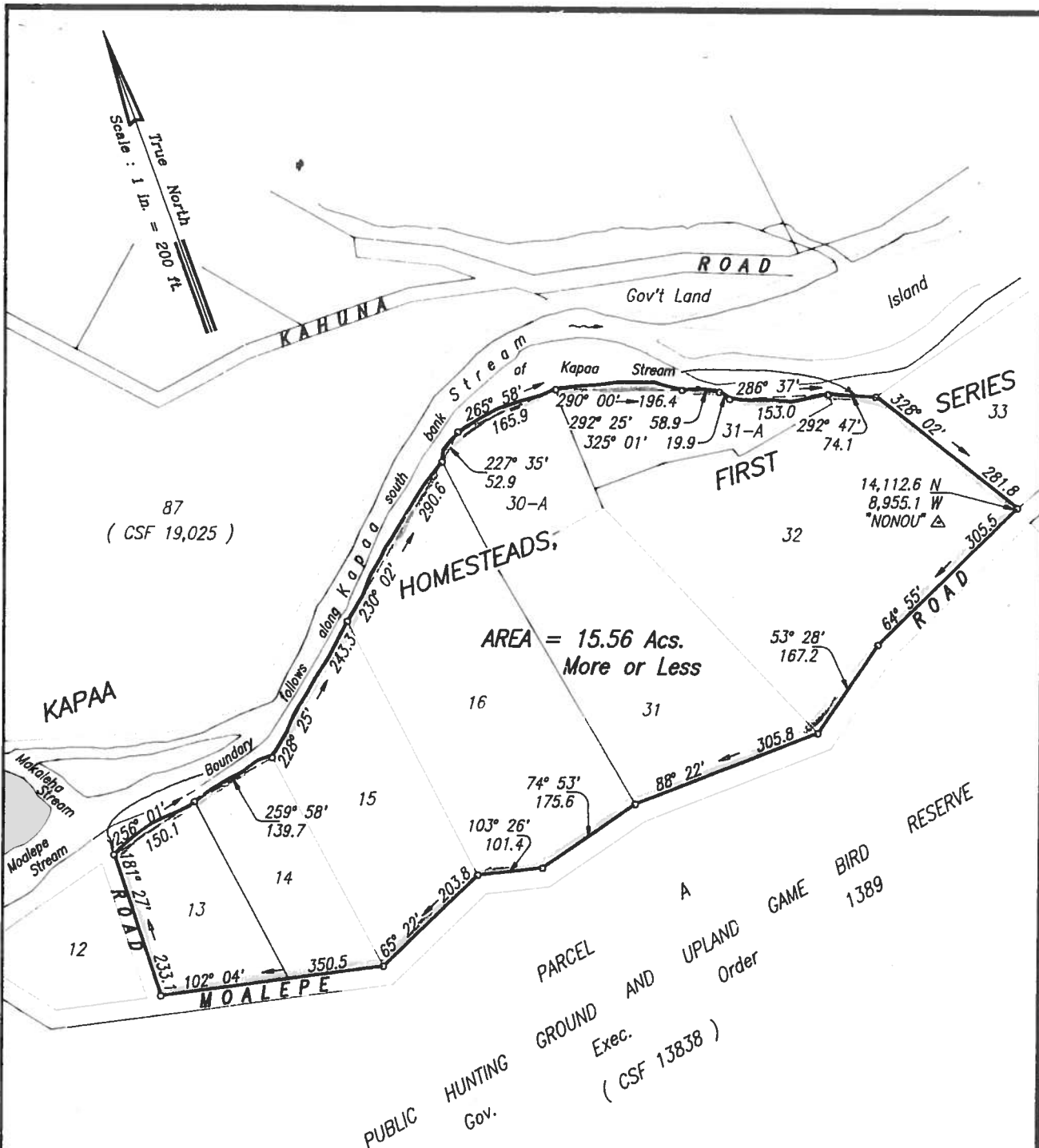


Source: 1. Tax Maps Bureau - Reg Map 2449
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EXHIBIT "A"

PORTION OF KAPAA HOMESTEADS, 1ST SERIES, KAWAIIHAW, KAUAI.



(REVISED JANUARY 1993)
KAPAA HOMESTEADS, FIRST SERIES

LOTS 13, 14, 15, 16, 30-A, 31, 31-A and 32 (COMBINED)

Kapaa, Kawaihau, Kauai, Hawaii
Scale 1 inch = 200 feet

JOB K-6(92)

C. BK.

TAX MAP 4-6-03 : 1

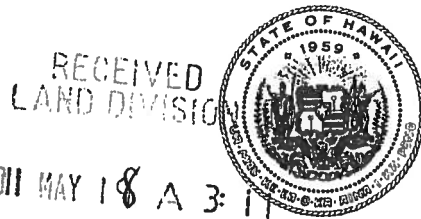
KAUAI FILE CARTON 7-A

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

ESH, Inc. Jan 25, 1993

EXHIBIT "A"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL ST., ROOM 325
HONOLULU, HAWAII 96813
TEL (808) 587-0166 FAX (808) 587-0160

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT


GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

To: RUSSEL TSUJI, Administrator
Land Division

From: PAUL CONRY, Administrator
Division of Forestry and Wildlife 

Subject: Request for assistance to set aside TMK parcel (4) 4-6-003:001 for addition to the Wailua Game Management Area

Pursuant to §183D-4, Hawai'i Revised Statutes, the department is directed to establish and operate game management areas and public hunting areas on land under its control for the purpose of managing, sustaining, and enhancing habitat and populations of game mammals and/or game birds, and providing public hunting opportunities.

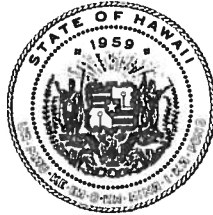
The subject parcel is adjacent to the Wailua Game Management Area (GMA) on Kauai and supports game resources and access to the existing GMA. Set aside of this parcel to the Division for incorporation into the Wailua GMA and management as a GMA would provide significant enhancement of public hunting opportunities on Kauai and facilitate the Division's mission to increase public access to hunting opportunities and game resources.

The Division is requesting assistance with the review and verification process with the Department of the Attorney General, and subsequent Governor's approval via Executive Order.

Mahalo for your assistance with this. If you have any questions please contact Scott Fretz at 587-4187.

EXHIBIT "B"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 23, 2011

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to the Wailua Game Management Area

Project / Reference No.: PSF No.:11KD-082

Project Location: Kawaihau, Kauai, Tax Map Key: (4) 4-6-3:1

Project Description: Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to the Wailua Game Management Area

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

This action before the Board is merely a transfer of management jurisdiction and does not propose any new use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Department of Agriculture's use of the lands, the Department of

EXHIBIT "C"

Agriculture shall be responsible for compliance with Chapter 343, HRS, as amended.

By memorandum received on May 18, 2011, Mr. Paul Conry, Administrator for the Division of Forestry and Wildlife is requesting the State property be set aside to the Division. The subject property is adjacent to the Wailua Game Management Area (GMA) on the island of Kauai. The addition of this property would support game resources, public hunting opportunities and access to the existing GMA.

Consulted Parties

Department of Hawaiian Home Lands, Office of Conservation & Coastal Lands, County of Kauai Department of Planning, Office of Hawaiian Affairs

Recommendation:

That the Board finds this project is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson

6/14/11

Date